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10/598,343

08/24/2006

Marc Peuker

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12/26/2008

3M INNOVATIVE PROPERTIES COMPANY

PO BOX 33427

ST. PAUL, MN 55133-3427

EXAMINER

ROSEN, ERIC J

ART UNIT

PAPER NUMBER

4118

NOTIFICATION DATE

DELIVERY MODE

12/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/598,343 | Applicant(s) PEUKER ET AL. | |
| | Examiner ERIC ROSEN | Art Unit 4118 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/08/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to the amendment filed on 08/24/2006. As directed by the amendment: claims 1-19 have been cancelled and claims 20-34 have been added. Thus, claims 20-34 are presently pending in this application.

Specification

2. The specification is objected to because reference number 270 has been used to designate both "reservoir" (page 8, lines 28 and 30) and "sleeve" (page 9, lines 30 and 31). Appropriate correction is required.

Claim Objections

3. Claim 29 is objected to because of the following informalities: The statement "...pawl engages with **the so** that upon..." is a typo. For the purposes of examination, the examiner assumes the claim reads "...pawl engages with **the lever so** that upon...". Appropriate correction is required.

4. Claim 29 recites the limitation "wherein the lever is attached to **the sleeve**" in claim 27. There is insufficient antecedent basis for this limitation in the claim. Claim 29 should be changed to be dependent upon claim 28 only. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20, 22-30, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lokhandwala et al (US 2003/0186190 A1) and in view of Sogaro (US 6547101 B1).

7. Regarding claim 20, 22, and 31, Lokhandwala discloses a delivery system for controlled dispensing of a substance, the system comprising: a cartridge 100, a plunger 120; and a lever 140 and a geared connection rod 122 for providing controlled dispensing of the substance (Figure 1). Lokhandwala also discloses the lever 140 is integrally formed with at least a part of the cartridge 100 (Figure 1). While Lokhandwala discloses an area 102n (Figure 1) where the material is stored until dispensed, Lokhandwala is silent regarding the delivery system having a cartridge comprising an actuator part and a material receptacle having at least two compartments for storing material components, the material receptacle being separable from the actuator part, and the plunger having at least two pistons for advancing the material components in the at least two compartments. However, Sogaro teaches a delivery system for controlled dispensing of a substance, the system comprising a cartridge that comprises of an actuator part 26 and a material receptacle 10 having at least two compartments (12, 14) for storing material components, the material receptacle being separable from the actuator part, and a plunger 20 having at least two pistons (22, 24) for advancing the material components in the at least two compartments (Figure 1). Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made

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to modify Lokhandwala's delivery system to include a cartridge comprising an actuator part and a material receptacle having at least two compartments for storing material components, the material receptacle being separable from the actuator part, and a plunger having at least two pistons, as taught by Sogaro, for the purpose of allowing the system to dispense a mixture of substance and to allow the cartridges containing said substances to be changed depending on the substances desired.

8. Regarding claim 23, Lokhandwala further discloses the lever 140 and a pawl 152 are adapted to reset to their original positions after each activation without the presence of additional springs (Figure 1; paragraph 0019).

9. Regarding claim 24, Lokhandwala further discloses the geared connection rod 122 is integrally formed with the plunger 120 (Figure 1; paragraph 0014).

10. Regarding claim 25, Lokhandwala further discloses the delivery system comprises a blocking member 108 which restricts upward movement of the lever 140 (Figure 1).

11. Regarding claim 26, Lokhandwala further discloses that the system comprises a reinforcement member 126 for hindering possible backlash movement of the connection rod 122, wherein a pawl 152 is adapted to lift the reinforcement member and thereby release the connection rod (Figure 1; paragraph 0019; the reinforcement member 126 is released with each stroke of the lever, wherein the pawl 152 pivots forward so as to push the plunger 120 forward).

12. Regarding claim 27 and 28, while Lokhandwala discloses a sleeve 100 (Figure 1), Lokhandwala is silent regarding the delivery system comprising a reservoir for

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receiving the mixed substance, wherein the reservoir comprises a sleeve which is movable over the exterior surface of the cartridge and a cavity for receiving the substance exiting the cartridge, the cavity being formed by the interior surface of the sleeve and the exterior surface of the cartridge. However, Sogaro further teaches a delivery system comprising a reservoir (33, 38), wherein the reservoir comprises a sleeve 30 which is movable over the exterior surface of the cartridge 10 and a cavity (33, 38) for receiving the substance exiting the cartridge, the cavity being formed by the interior surface of the sleeve 30 and the exterior surface of the cartridge 10 (Figure 1; abstract; the cartridge 10 is inserted into the sleeve 30, forming the cavity of the reservoir 33, 38). Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to further modify Lokhandwala's delivery system by including a reservoir wherein the reservoir comprises a sleeve which is movable over the exterior surface of the cartridge and a cavity being formed by the interior surface of the sleeve and the exterior surface of the cartridge, as taught by Sogaro, for the purpose of allowing multiple materials to mix prior to being dispensed from the system.

13. Regarding claim 29, Lokhandwala discloses the lever 140 being attached to the sleeve 100 and a pawl 152 engaging with the lever so that upon each push of the lever, the plunger 120 is caused to move forward toward the cavity 102n, thereby providing controlled dispensing of the substance (Figure 1). Upon incorporation of the cartridge 10 and plunger 20 into Lokhandwala's system, as taught by Sogaro, the cartridge 10 would act as a second plunger upon compression of the first plunger 20, moving forward toward the cavity (33, 38) with each push of the lever (Figure 1).

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14. Regarding claim 30, Lokhandwala discloses the delivery system wherein by pressing the lever 140, a pawl 152 engages with the connecting rod 122 and thereby activates a plunger 120, and a piston 130 is moved forward (Figure 1). Upon incorporation of the cartridge 10 and plunger 20 into Lokhandwala's system, as taught by Sogaro, the cartridge 10 would act as a second plunger with a piston 40, upon compression of the first plunger 20, moving forward toward the reservoir (33, 38) with each push of the lever (Figure 1).

15. Regarding claim 33, Lokhandwala further discloses the system further comprising a substance for the treatment of caries ("dental filling material"; paragraph 0004).

16. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lokhandwala in view of Sogaro, and further in view of Meshberg (US 4696415).

17. Regarding claim 21, Lokhandwala/Sogaro is silent regarding the delivery system comprising a self-opening closure system which seals the front ends of the compartments and would open when the plunger is advanced. However, Meshberg teaches a self-opening closure system which seals the front ends of the compartments and opens when the pressure on the material builds up (Col. 1, lines 60-63; pressure on the material would build up upon advancing the plunger). Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to modify Lokhandwala/Sogaro to include a self-opening closure system which seals the front

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ends of the compartments and would open when the plunger is advanced, as taught by Meshberg, for the purpose of keeping the dispenser from leaking while not in use.

18. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lokhandwala, in view of Sogaro, and further in view of Simonton et al (US 20040072123 A1).

19. Regarding claim 32, Lokhandwala/Sogaro is silent regarding the system further comprising a brush. However, Simonton teaches a brush 32 (Figure 1) attached to a material dispenser. Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to modify Lokhandwala/Sogaro by attaching a brush to the system, as taught by Simonton, for the purpose of helping to facilitate the precise application of material (paragraph 0018).

20. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lokhandwala, in view of Sogaro, and further in view of Ferguson (US 6264619 B1).

21. Regarding claim 34, Lokhandwala/Sogaro discloses the system according to claim 33, but is silent regarding a kit with a system according to claim 33, further comprising a glove. However, Ferguson teaches a kit 10 that holds a dispensing system 30 ("syringe") and a glove 52 (Figure 1). Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Lokhandwala/Sogaro's device by putting it in a kit with a glove, as taught by Ferguson, for the purpose of transporting the items together.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC ROSEN whose telephone number is (571)270-7855. The examiner can normally be reached on Monday-Friday, 9am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ERIC ROSEN/
Examiner, Art Unit 4118

/Quang D. Thanh/
Supervisory Patent Examiner,
Art Unit 4118